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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,369	11/23/2001	Gerd Munnekehoff	44815-262289 (26010)	9397

23370 7590 04/30/2004

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EXAMINER

BRAHAN, THOMAS J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,369

Applicant(s)

MUNNEKEHOFF, GERD

Examiner

Thomas J. Brahan

Art Unit

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-- Th MAILING DATE of this communication appears on the cover sheet with th correspondenc address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-19 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,11,13-17 and 22-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-10,12,18,19,26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Claims 3, 5, 11, 13-17 and 22-25 have been withdrawn from consideration as drawn to non-elected species, the election having been made without traverse in paper filed January 21, 2003.
2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
3. Claims 1, 2, 6-10, 12, 18, 19, 26, and 27 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. In claim 1, lines 13 and 14, the recitation "in response to a zero deviation (ΔS) of said signal (S) from a desired value (W)" is unclear. The specification fails to describe a value (W), or how it is considered as a desired value. Is it a value designed into the control circuitry or is it a value set by the user for each lifting function? Claim 27 has a similar recitation.
 - b. In claim 12, lines 3 and 4, the recitation "corresponding to a load (9) or on the (S)" is not understood. The recitation appears to be incomplete, as a claim element cannot be denoted with just a reference numeral in parenthesis. Also in claim 12, it is unclear as to how apparatus changes the transmission behavior of the control member, as recited in the last five lines of the claim.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:
A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. Claims 1, 2, 6, 7, 9, 10, 12, 26, and 27, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Joraku et al. Joraku et al shows a system for controlling a load lifting apparatus which senses a force applied to the load and constantly balances the lifting to maintain the load in a raised or standstill position. It includes an electric motor (13) and a signal generating device (311), as recited in claims 2 and 26, and includes a flexible element (12) wound on a drum, as recited in claim 6. The signal generated at the drum

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"corresponds" to the rotation of the drum, or to the angle of the rotation of the drum, as recited in claim 7. Joraku et al has a regulating circuit emitting signals, as recited in claim 9. Movement of a handling device/load bearing element (at 9) corresponds to a manipulation force for moving the load, as recited in claim 10. A setting member (S2 and S3) establishes a signal corresponding to the load, see column 6, lines 25-33, as claim 12 is best understood.

7. Claim 8, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Joraku et al. Using an incremental encoder as the signal generator the drum of Joraku et al would have been an obvious design expedient within the level of routine skill in the art at the time the invention was made.

8. Claims 18 and 19, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Joraku et al in view of Kazerooni. Joraku et al shows the basic claimed balanced lifting device, as detailed above, but varies from claim 18 by not having the control circuitry part of a programmable controller. Kazerooni shows a similar balanced lifting device with a programmable controller, see the last full paragraph in column 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lifting device of Joraku et al by having the control circuitry include a programmable controller, to allow changes in the lifting parameters of the system by the user, as taught by Kazerooni.

9. Claims 1, 2, 6-10, 12, 18, 19, 26, and 27, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Joraku et al in view of Kazerooni. Joraku et al shows a system for controlling a load lifting apparatus which senses a force applied to the load and constantly balances the lifting to maintain the load in a raised or standstill position. It appears to be an anticipation of claim 1, as detailed above, depending upon the interpretation of the limitation "in response to a zero deviation (ΔS) of said signal (S) from a desired value (W)". Kazerooni shows a similar balanced lifting device with a programmable controller for changing the lifting parameters of the system, i.e. to set a "desired value". See the last full paragraph in column 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lifting device of Joraku et al by having its control circuitry include a programmable controller, to allow changes in the lifting parameters of the system by the user, as to establish desired values, as taught by Kazerooni. Using an incremental encoder as the signal generator the drum of Joraku et al, as recited in claim 8, would have been an obvious design expedient within the level of routine skill in the art at the time the invention was made.

10. Applicant's remarks in the amendment filed January 26, 2004 have been considered, but are deemed moot in view of the above new rejections. The amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. An inquiry concerning this communication should be directed to Thomas J. Brahan at telephone number (703) 308-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306.



Thomas J. Brahan
Primary Examiner
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